

REMARKS

This Response is responsive to the Office Action dated March 9, 2005. The claims 1 through 60 are rejected under 35 U.S.C. 102(e) or alternatively under 35 U.S.C. 103(a) over U.S. patent no. 6,359,072 (hereinafter "Whaley"). The claims 1 through 60 are rejected under 35 U.S.C. 102(e) or alternatively under 35 U.S.C. 103(a) over U.S. patent no. 6,482,532 (hereinafter "Yap"). With respect to both Whaley and Yap, the Examiner acknowledges that Whaley does not disclose the melt index for the polyethylene copolymer as recited and claimed by Applicants. The Examiner alleges that the values for melt index ratio, clarity, puncture resistance, plastic force and shrink stress would be inherently embraced by the reference. Applicant traverses the rejection for the reasons detailed below.

The reliance on inherency to find Applicants' claimed values for melt index ratio, clarity, puncture resistance, plastic force and shrink stress in either Whaley or Yap is misplaced. Table 8 in the instant application shows under examples 13 and 14, both made from the same two resins although in different ratios, that the haze and clarity values are quite similar. However, the puncture resistance is less than 40 mJ/ μ m for example 13 but greater than 40 mJ/ μ m for example 14. A comparison of examples 15 and 16 in Table 8 shows that as haze decreases going from example 16 to example 15, then clarity increases but puncture resistance decreases. There is not a simple correlation between melt index ratio, clarity, puncture resistance, plastic force and shrink stress, which means reliance on inherency to establish these values in the references is improper. Applicant requests reconsideration and withdrawal of the 35 U.S.C. 102(e) rejection.

In light of the examples discussed above, the references do not teach or suggest all of the claim elements of the instant application. Since the examples discussed above show unpredictability of samples with respect to any correlation between the values that are not taught by the references and are putatively asserted to be inherent, the references at best are an invitation to investigate materials generally similar to Applicant's claimed invention. Because of the lack of correlation between the putatively "inherent" values, as demonstrated by the examples in Table 8 of the instant application, there is no reasonable expectation of success for reaching Applicant's claimed invention based on Whaley or Yap. Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection.

Applicant respectfully submits that the claims are in condition for allowance and requests a notice of allowability.

If the Examiner believes that there are any outstanding issues that need to be addressed, please call the undersigned attorney.

Respectfully submitted,

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Date

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